

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Bruce Peotter was a candidate for Orange County Clerk-Recorder in the March 5, 2002 primary election. Respondent Friends of Bruce Peotter was the controlled committee of Respondent Peotter. Respondent Peotter, who received 24.1% of the vote in the primary election, was unsuccessful in the November 5, 2002 general election.

The Political Reform Act (the “Act”)<sup>1</sup> requires a candidate or committee that sends a mass mailing to properly identify the sender on the outside of each piece of mail in the mass mailing. In this matter, Respondents paid for and sent a mass mailing prior to the March 5, 2002 primary election that did not identify Respondents Bruce Peotter and Friends of Bruce Peotter as the sender of the mass mailing.

For the purposes of this stipulation, Respondents’ violation of the Act is stated as follows:

On or about February 27, 2002, Respondents Bruce Peotter and Friends of Bruce Peotter sent a mass mailing, supporting Respondent Peotter’s candidacy for Orange County Clerk-Recorder in the March 5, 2002 primary election, which did not display the proper name, street address, and city of the candidate and committee that sent the mass mailing, in violation of section 84305, subdivision (c).

### **SUMMARY OF THE LAW**

Section 84305, subdivision (a) requires candidates and committees to properly identify themselves when sending a mass mailing. Specifically, the statute provides that no candidate or committee shall send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing. If the sender of the mass mailing is a controlled committee, section 84305, subdivision (c) requires that the name of the candidate, as well as the name of the committee, be included on the mass mailing.

Section 82041.5 defines a “mass mailing” as over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry. Regulation 18435, subdivision (a) clarifies this section, and further defines a mass mailing as over two hundred substantially similar pieces of mail sent in a calendar month. Regulation 18435, subdivision (b) defines the term “sender,” as used in section 84305, as the candidate or committee who pays for the largest portion of expenditures attributable to the designing, printing or posting of the mailing.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

Section 82016 defines a “controlled committee” to include a committee controlled directly by a candidate or that acts jointly with a candidate in connection with the making of expenditures.

### **SUMMARY OF THE FACTS**

Respondent Bruce Peotter was a candidate for Orange County Clerk-Recorder in the March 5, 2002 primary election. Respondent Friends of Bruce Peotter was the controlled committee of Respondent Peotter, who served as the treasurer of his controlled committee. Respondent Peotter, who received 24.1% of the vote in the primary election, was unsuccessful in the November 5, 2002 general election, losing to candidate Tom Daly.

On or about February 27, 2002, Respondents paid for and sent a mass mailing that did not contain proper sender identification. The mailing consisted of an endorsement letter signed by John M. W. Moorlach, who was the incumbent Orange County Treasurer-Tax Collector. The letter urged the recipient to vote for Respondent Bruce Peotter for Orange County Clerk-Recorder, and included a remittance envelope to send contributions to Respondent Peotter. The endorsement letter also contained language opposing Measure V in the March 5, 2002 primary election, and included a voter guide authored by Mr. Moorlach.

The endorsement letter was on what appeared to be Mr. Moorlach’s official letterhead, and at the bottom stated that it was “Paid for by John M.W. Moorlach, C.P.A., CFP Orange County Treasurer-Tax Collector, ID# 940451.” The identification number was for Mr. Moorlach’s controlled committee. The business-size envelope, in which the letter and voter guide were enclosed, also identified Mr. Moorlach’s name, elected office, and address on the upper left-hand corner as the sender. The bottom left-hand corner of the envelope included the language: “Paid for by John M.W. Moorlach, C.P.A., CFP Orange County Treasurer-Tax Collector, ID# 940451.” The envelope also included a bulk rate permit stamp listing “Permit No. 720” in Santa Ana in the upper right-hand corner. The mailing was sent to 3,500 Orange County voters who were on John Moorlach’s mailing list.

On or about February 27, 2002, Brett Barbre made a \$530.46 non-monetary contribution to Respondent Peotter’s campaign for designing the above endorsement letter mailing and for part of the postage to send the mailing. The bulk rate permit used for the mailing belonged to Mr. Barbre. Respondent Friends of Bruce Peotter paid for the remaining printing, production, and postage costs for the mass mailing in the total amount of \$1,034.51. Respondents properly reported these expenditures and the \$530.46 non-monetary contribution from Mr. Barbre, on their campaign statements. Neither John M.W. Moorlach nor his campaign committee paid for any of the costs associated with the mass mailing. Under an Orange County campaign ordinance (Section 1-6-9), Mr. Moorlach’s campaign committee was prohibited from paying for the mailing with Respondents’ knowledge.

Shortly after the election, John M.W. Moorlach reported that Respondents paid for the mailing, and that the inclusion of his name, instead of Respondents’ names, was an “embarrassing oversight.”

As a candidate and as a controlled committee, Respondents Bruce Peotter and Friends of Bruce Peotter were required to include their names, street addresses and city on the outside of each piece of mail in the mass mailing, since they paid the largest portion of the costs associated with the mailing. Respondents failed to include the name, address, and city of Respondent Peotter and his controlled committee, Respondent Friends of Bruce Peotter, on the outside of mass mailing sent to Orange County voters prior to the March 5, 2002 primary election. By failing to include proper sender identification on the mass mailing, Respondents violated section 84305, subdivision (c).

### **CONCLUSION**

The failure to include the proper committee name and address on the mass mailing is a serious violation of the Act. The mass mailing may have been deceptive in that it stated that it was paid for by John M. W. Moorlach, who was the incumbent Orange County Treasurer-Tax Collector, when in fact, Mr. Moorlach did not directly pay for any of the costs associated with the mass mailing. Mr. Moorlach's committee was prohibited from paying for the mailing with Respondents' knowledge, under a local campaign ordinance.

In mitigation, the mass mailing was a "positive" piece supporting Respondent Peotter's candidacy for Orange County Clerk-Recorder. In addition, Respondent Peotter was unsuccessful in his election bid, and Mr. Moorlach reported the violation shortly after the election.

This matter consists of one count of violating section 84305, subdivision (c), which carries a maximum administrative penalty of Five Thousand Dollars (\$5,000). The facts of this case, including the above factors, justify imposition of the agreed upon penalty of Fifteen Hundred Dollars (\$1,500).